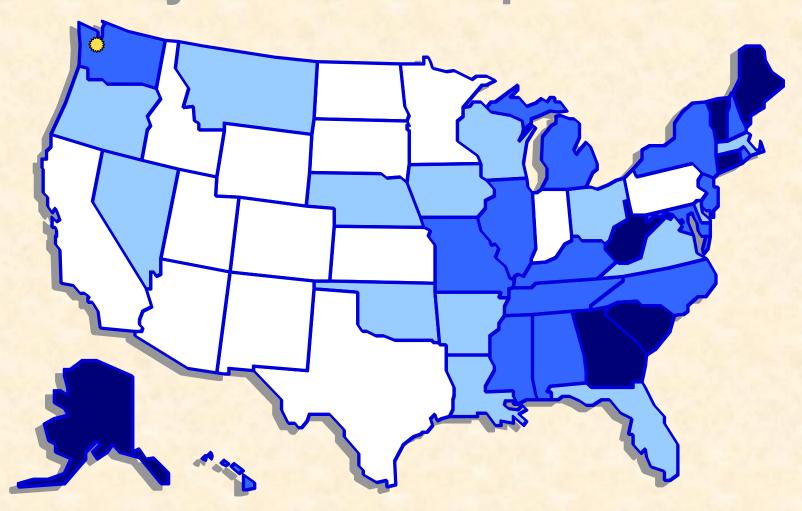
National CON Perspective and Experience "Key State" Comparisons





in acknowledgement of and appreciation for all of the Certificate of Need programs in the United States

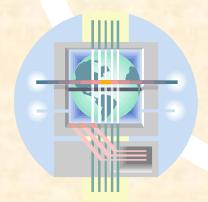
Thomas R. Piper

Principal, MacQuest Consulting

a presentation to the

Washington State CON Task Force

1:15 pm, Tuesday, January 3, 2005





QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

Comparisons of Effectiveness

Definition of "effectiveness":

an upward spiral of growth."

a balance between the production of desired results and the capacity of the production assets . . . these habits could become the "basis of a person's character, creating an empowering center of correct maps from which an individual could effectively solve problems, maximize opportunities, and continually learn and integrate other principles in

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

Covey's View of Effectiveness

- Be Proactive
- Begin with the End in Mind
- Put First Things First
- Think Win/Win
- Seek First to Understand,
 Then to Be Understood
- Synergize
- Sharpen the Saw

... effectiveness is relative ...

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.



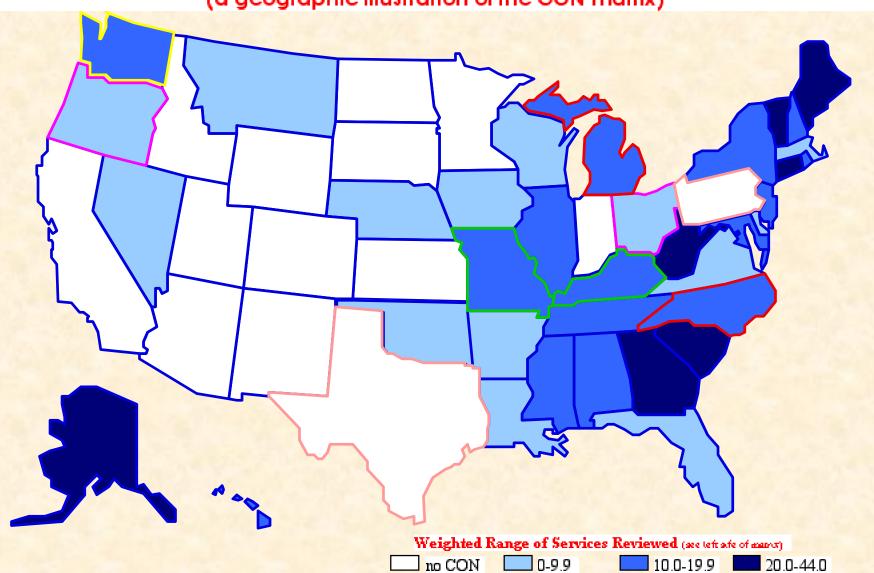
- Who (the CON decision-makers)
- How (the process of decision making)
- What (factors considered in making the decision)
- When (decision making timeframes and considerations)
- Where (venues and methods for decision making)
- Why (rationale and impact for decisions)

The CON Matrix of

2005 Relative Scope and Review Thresholds: CON Regulated Services by State (this information is summarized from the 2005 National Directory of Health Flanning, Policy and Regulatory Agencies, the fifteenth edition published by the American Health Flanning Association, also see map)

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a Map of the 2005 Relative Scope and Review Thresholds: CON Regulation by State (a geographic illustration of the CON matrix)





WHO: the CON Decision-Makers

- The Buck Stops Where . . .
 - certificate of need analyst
 - department head
 - commission
 - context (organizational location of decision-maker)
- Ex parte Contact ("from (by or for) one party")
 influencing vs. educating

 - competitive vs. cooperative interests
- Process Advisors
 - local planning agencies (HSAs, zoning, etc.)
 - business groups/associations
 - other state agencies (Medicaid, licensing, etc.)



HOW: the Process of Decision Making

- State Health Plan (aka Strategic Plan)
 - comprehensive perspective
 - vision of the future (what should or could be)
- Medical Facilities Plan (criteria and standards)
 - appendix to or subset of State Health Plan
 - definitive analytical tool for proposal evaluation
 - CON rules and regulations
 - measurable performance guidelines (max. & min.)
- Health Policy Statements (governor, legislature, other)
- **Staffing** (expertise of the analysts)

WHAT: Decision Making Factors

- Scope and Threshold for Review
 - array of facilities and services
 - level of detail to be considered
- Community Need
 - population-based methodologies
 - utilization of existing and proposed services
 - service area
- Financial Feasibility

 - comparative cost of proposal
 projected cash flow and sources
 anticipated financing charges

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

WHAT: Decision Making Factors (cont'd.)

- Alternatives Considered
- Uncompensated Care
 - fair share of charity care and write-offs
 - safety net responsibilities
- Character and competence of applicant
 - past performance at other locations
 - credentials and experience in related services
 - other business and ethical considerations

... similar to a banker's business plan requirements ...

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

WHAT: Decision Making Factors (cont'd.)

Community Input

- public hearingscommunity visits and meetings
- focus groups, surveys, assessments

Special Considerations

- barriers to access (geographic, cultural, other)education and training programsclinical trials and testing

- special populations

Conditions

- monitoring and reporting utilizationrelationships and affiliations



WHEN: Decision Making Timeframes

- Individual Review Tracks
 - stand-alone processing with overlapping reviews
- Batch Processing by Type
 competitive applications for similar services
 - RFP-type proposals responding to Plan
- Grouping by Review Cycle
 - calendar-based fixed decision date schedules
 - full vs. expedited reviews
- Post-Decision Monitoring
 - change in scope of service
 - cost overruns



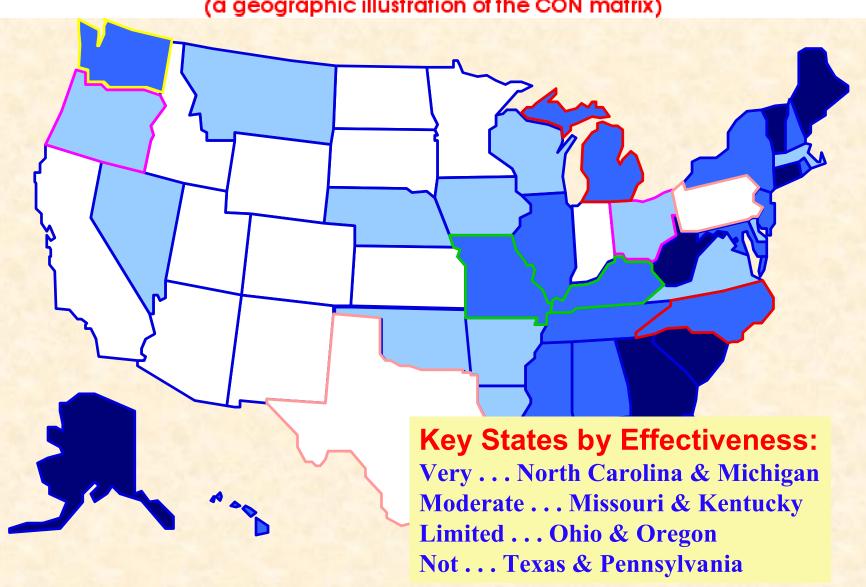
WHERE: Decision Making Venues

- Judicial-like Hearings
 - evidence-driven presentations
 - cross-examination by interested parties
- Public Meeting Format
 - solicitation of public opinion and concerns
 - response to questions and inquiries
- Electronic vs. Paper Processing

 - use of computer templates and formssubmission of applications via CD/DVD/Internet
- Negotiations

 - cooperative attempts among competing interestsmodification of proposals in size, scope, location, other

a Map of the 2005 Relative Scope and Review Thresholds: CON Regulation by State (a geographic illustration of the CON matrix)



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2005 Relative Scope and Review Thresholds: CON Regulated Services by State (this information is summarized from the 2005 National Directory of Health Flanning, Policy and Regulatory Agencies, the fifteenth edition published by the American Health Flanning Association, also see map)

Rank (no. of svcs.x weight)	Categories	Acute Care	AirAmbulance	Amb Surg Cfrs	Burn Care	Business Cmptrs	Cardiac Cath.	CT Scanners	Gamma Knives	Home Hith	ICF/MR	Lithotripsy	Long Term Care	Med Off Bldg	Mobile Hi Tech	MKI SONS Neo-offlot Care	Obstetric Sycs	OpenHealtsvox	Oran Transplrt	PET Sonis	Psychiatric Svas	Rad Therapy	Rehab	Renal Dialysis	Res Care Fac	Subdoute	to de constant	Ulfrosound	Other (fers not otherwise covered)	(no. of svcs.)	Missou	ni CON pro fferson Cit 573-751 yThresho	gram y, MO -6403 olds
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- annually-updated detailed state health plan question is not "how many", but rather "who best qualifies" to provide it.
- meticulous statutory clarity
 - The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.
- intensive public input process (SHCC hearings)
- well-organized highly-structured traditionalist
- regionalized need methodology by service, decision by analyst

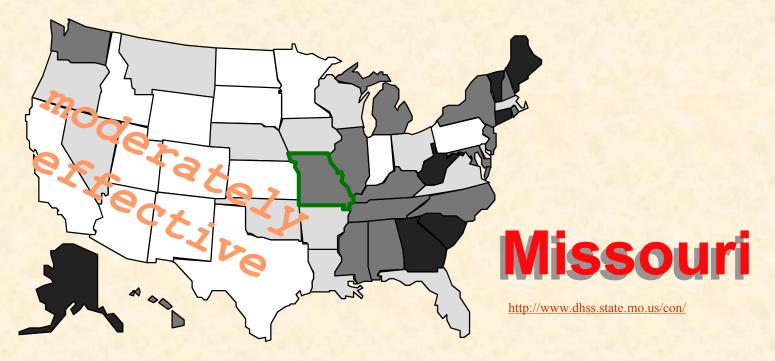


- extensive individual criteria and standards in key services like hospital and ambulatory surgery services (do fewer better)
- intensive business relationship with Economic Alliance
- strong hospital association support and medical cooperation
- well-organized well-staffed with broad expertise (extensive monitoring/ surveillance of projects after CON approval)
- localized need methodology for service areas
- online application process by March 2006

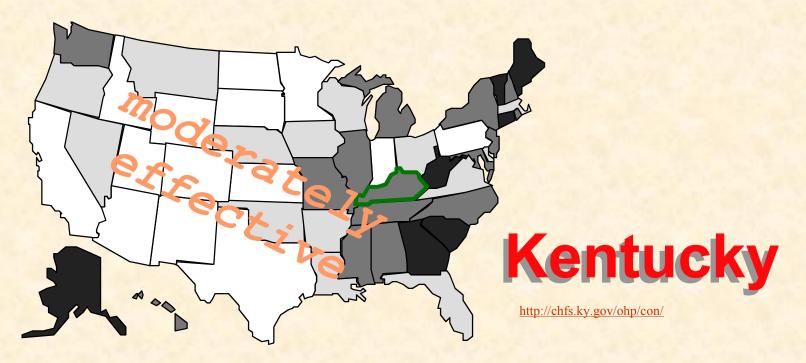
The CON Matrix of

2005 Relative Scope and Review Thresholds: CON Regulated Services by State (this information is summarized from the 2005 National Directory of Health Flanning, Policy and Regulatory Agencies, the fifteenth edition published by the American Health Flanning Association, also see map)

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0.4	Nebraska																														2	n/a n/a LTC >10%	0.2
	Louisiana																														2	n/a n/a LTC/MR	0.2



- criteria and standards by rule (covert planning with regulation)
- extensive public input process (ex parte contact allowed)
- well-organized streamlined process (fewer services since 2002)
- service areas defined by applicant (fixed 15-mile radius)
- committee decision-maker composed of gov./legis. apptmts. (compromised by potential constitutional separation-of-powers debate)
- appropriate application fees (not directed to agency operational use)



- draft state health plan held back
- two-year statewide moratorium
- regionalized need methodology
- recently raised thresholds and deregulated services
- located in Cabinet for Health and Family Services
- physician's office and hospital-MRI exemptions

CON Covered Facilities & Services

FACILITIES

- Hospitals and Hospital Beds
- Nursing Homes
- · Personal Care Homes
- Ambulatory Surgical Centers
- · Rehabilitation Agencies
- · Adult Day Health Care
- ICFMR
- Etc...

Cabinet for Health and Family Services

SERVICES

- · Home Health
- Hospice
- Ambulance
- MRI
- · Megavoltage Radiation
- · Cardiac Catheterization
- Organ Transplant
- · Open Heart Surgery

Moratorium

- June 30, 2005, Governor Fletcher Issued Executive Order 2005-615
- Exceptions to the Moratorium Included:
 - >Applications which qualify for nonsubstantive review; and
 - ➤ Applications to establish MRI's at hospitals or hospital owned facilities; and
 - >Applications to alleviate emergencies.
- Current Moratorium Expires December 30, 2005

CON Tasks During the Moratorium

- State Health Plan
 - Carefully review all need criteria & methodologies
- Physicians Office Exemption
 - ➤ Recognize the evolution of the physicians office and the impact of emerging technology
 - Remain aware of the impact the POE has on other providers and insurers
 - ➤ Calculate cost implications to DMS, Employee Health Insurance, etc...if the POE is defined further

Cabinet for Health and Family Services

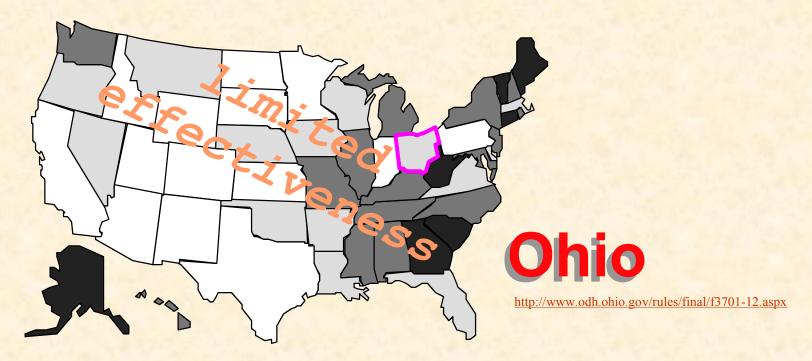




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0.4	Louisiana																														2	n/a	n/a	LTC/MR	0.2	┛



- limited scope of review (mostly long term care)
- debilitating deregulation consequences
 (Status Report on Ohio After Deregulation From Certificate of Need
 http://www.bricker.com/publications/articles/533.asp)
- Letter of Intent process eliminated
- State Health Plan no longer in use

Ambulatory Surgery Facility <u>Increase</u> since Deregulation

<u>1995</u> <u>2001</u>

Ambulatory surgery facilities

31

186*

(many new ASFs are physician owned and operated**)



*about 30 are eye-surgery-only facilities

**hidden effect in small communities: joint-ventures and hosp/phys adversity

Diagnostic Imaging <u>Increase</u> since Deregulation

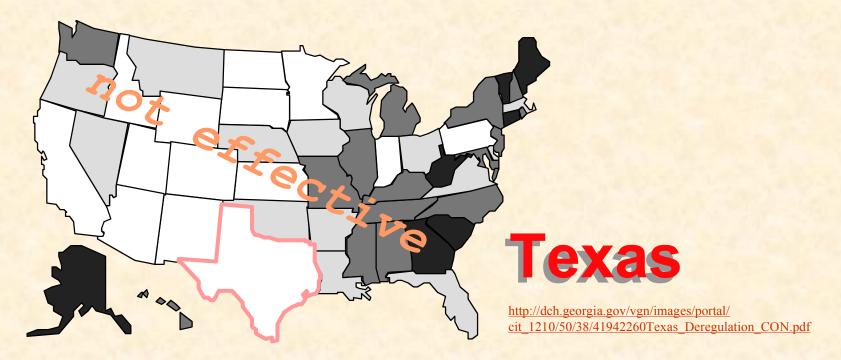
	<u>1995</u>	<u>1999</u>
Non-hospital-based		
Mobile or free-standing MRIs	23	126*
Hospital with in-house MRIs	35	almost all

*Notices of Intent filed for 65 more since then

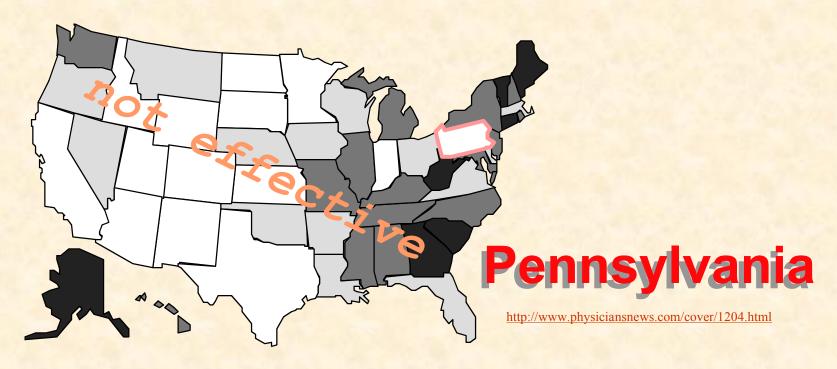




- neatly written statutes (highlighted by what's NOT reviewed)
- minimal services reviewed (LTC and swing beds)
- legislative attempt to expand into hospital services failed
- strong resistance from hospital and medical industry
- severely limited staffing (two part-time)



- very low long-term care occupancy rates (surplus capacity)
- very large number of specialty hospitals (hospital association did study on "niche" hospitals)
- numerous attempts to reinstitute CON in legislature
- recent attempt to prohibit physician self-referrals



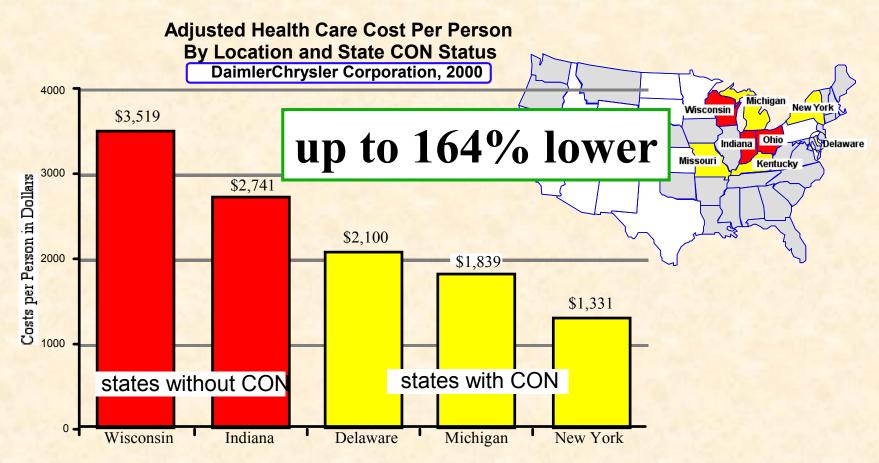
- 1996 accidental sunset of CON statutes (exemption debate)
- converted CON program to quality assessment in licensing
- concept of "value purchasing" failed
- attempts to reinstitute CON in 2005 almost succeeded
- "The proof is in the pudding." Pennsylvania health care has been functioning in a free market for eight years, and costs have soared, PA Rep. Phyllis Mundy says. Business groups agree. "Something's got to give," says Cliff Shannon, President of SMC Business Councils. Shannon contends the market alone is not enough because providers don't do a good enough job at regulating themselves and health insurers don't control utilization.



WHY: Rationale and Impact

- The health care market is inherently imperfect.
- Health care is not, and should not be treated as, a commodity.
- The studies critical of CON cited by the FTC are not reliable.
- Empirical evidence & experience are ignored or treated dismissively.
- Health care is treated as a privilege.
- Real-life experience illustrates the value of planning and regulation . . .

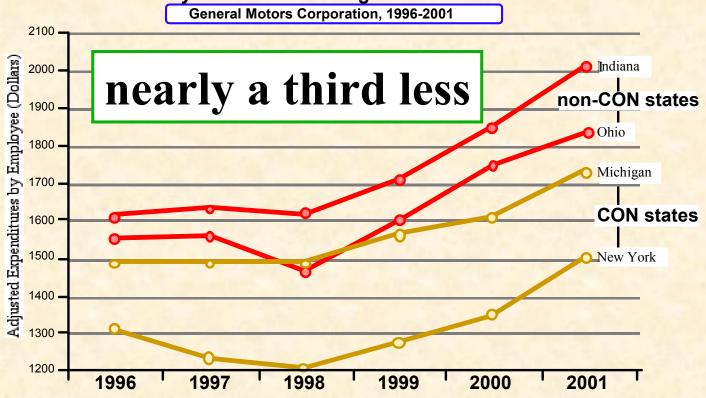
Big-Three Automakers Health Care Costs non-CON vs. CON states



CON states have lower health care costs than non-CON states!

Big-Three Automakers Health Care Costs non-CON vs. CON states

Adjusted Health Care Expenditures Per Employee
By State and CON Regulation Status



CON states have lower health care costs than non-CON states!

Hospital Inpatient Relative Cost (per 1000 members normalized to Michigan Year 2000 = 100) Ford Motor Company 120 8% above Michigan 115 Relative inpatient cost 12% above 110 Michigan 105 5% above Michigan 2% above 100 **Michigan** set at 100 95 90

Big-Three Automakers Health Care Costs non-CON vs. CON states

about 20% less

Hospital Outpatient Relative Cost

Kentucky

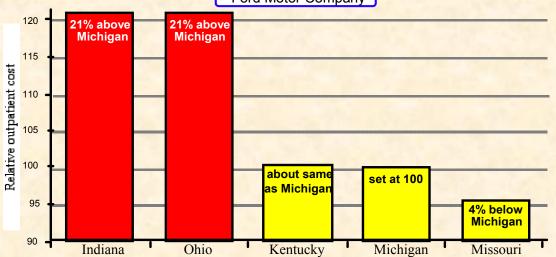
Michigan

Missouri

Ohio

Indiana

(per 1000 members normalized to Michigan Year 2000 = 100)
Ford Motor Company



CON
states
have
lower health
care costs
than
non-CON
states!

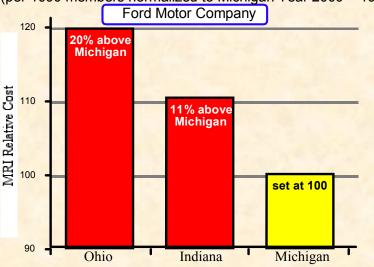
Big-Three Automakers Health Care Costs non-CON vs. CON states

11-39% lower

con states have lower health care costs than non-CON states!

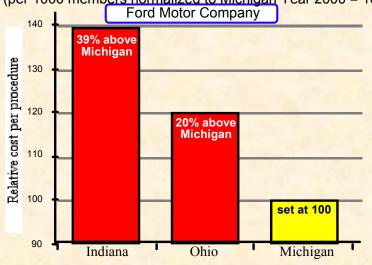
Magnetic Resonance Imaging MRI) Relative Cost Per Service

(per 1000 members normalized to Michigan Year 2000 = 100



Coronary Artery Bypass Graft (CABG)Surgery Relative Cost Per Service

(per 1000 members normalized to Michigan Year 2000 = 100

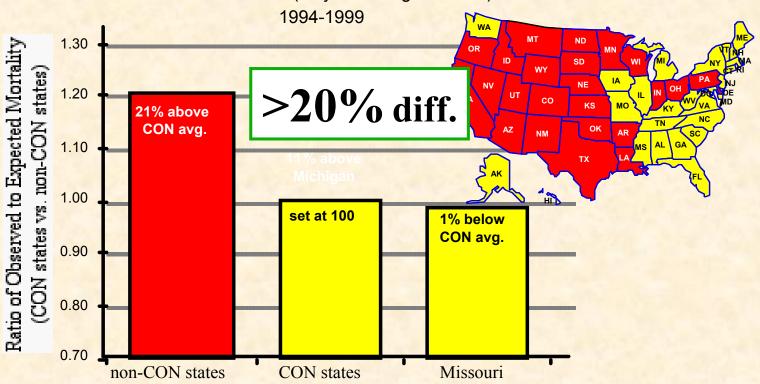


CABG Mortality non-CON vs. CON states

Coronary Artery Bypass Graft (CABG) Surgery

Risk-Adjusted Mortality by State CON Regulation Status

Medicare Beneficiaries (65 years of age or older)



CON states have lower mortality for CABG surgery than non-CON states!



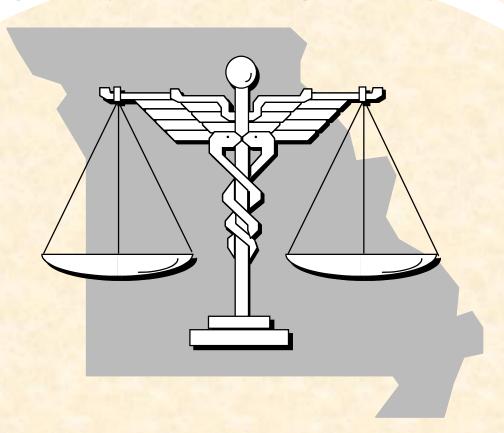
CON: Effective Community Regulatory Tool

- Planning-based, analytically-oriented, fact-driven
- Open process, with provision for direct public involvement
- Structured to compensate for market deficiencies and limitations and foster market efficiency
- Unlike licensure and certification with their leveling effects, designed to highlight and accentuate quality
- Promotes economic and quality competition within the context of health care market realities
- Practical and educational rather than ideological
- Doorway to excellence rather than barrier to market entry

Balance Regulation and Competition:Protect Community Interests

- Promote the development of community-oriented health services and facility plans
- Provide pricing and quality information to consumers so that they have an educated choice
- Provide a public forum to ensure that the community has a voice in health care

CON... promoting responsive planning, evaluating health systems and reducing unnecessary health costs



Thomas R. Piper, Principal
MacQuest Consulting
2539 Lexington Drive, Jefferson City, MO 65109

ph: 573-230-5350 fax: 573-635-3620 email: macquest@mac.com

Certificate of Need: Protecting Community Interests

